

**Before the  
Federal Communications Commission  
Washington, D.C.**

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In the Matter of )  
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Spectrum Policy Task Force )  
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ET Docket No. 02-135

**REPLY COMMENTS OF WINSTAR COMMUNICATIONS, LLC**

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February 28, 2003

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On behalf of Winstar Communications, LLC<sup>1</sup> (“Winstar”) enclosed herewith please find its comments regarding the Spectrum Policy Task Force (“SPTF”) and its Working Groups.<sup>2</sup>

**I. INTRODUCTION**

In the Public Notice the Commission notes that “[t]he Commission hereby seeks comment on the Spectrum Policy Task Force Report.”<sup>3</sup>

**II. COMMENTS**

**A. Fixed Services v. Satellite Services**

In its filed comments Boeing called for a bright line distinction for non-satellite services between how the Commission allocates spectrum for private interest services versus public interest services.<sup>4</sup> In contrast, Winstar urges that the Federal Communications Commission (“FCC” or “Commission”) not maintain such a bright line distinction between private and public

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<sup>1</sup> Most of the assets of Winstar Communications, Inc. (“Old Winstar”) were purchased out of Chapter 11 bankruptcy on December 19, 2001 by a wholly-owned subsidiary of IDT Corp. (“New Winstar”), and New Winstar became involved in company operations pursuant to a contiguously created management agreement that was adopted by the bankruptcy court. The FCC granted the related assignment of the Old Winstar spectrum licenses in a series of actions on April 17, 2002. Some of those assignments were conditioned. Most of those license assignments were consummated June 14, 2002 except for the assignment of certain LMDS licenses, which remains to be concluded, subject to the performance of certain conditions.

<sup>2</sup> See Commission Seeks Public Comment on Spectrum Policy Task Force Report, *Public Notice*, (FCC 02-322) (Nov. 25, 2002).

<sup>3</sup> *Id.*

interest services, as what might be characterized as a private interest service may very well be used in the public interest as was evidenced by the use of Winstar and other private service provider's services in the aftermath of the attacks of September 11, 2001. Winstar also questions why Boeing differentiates between satellite and non-satellite services in this context. Fixed and fixed satellite services often deliver similar services using similar spectrum bands.

## **B. Spectrum Auctions**

Winstar supports the Task Force report in its recommendation for reconsideration of the ORBIT Act to consider permitting, but not requiring, the Commission to utilize competitive bidding to resolve mutually-exclusive applications for global and international satellite services. As such, Winstar disagrees with the comments of the satellite community that oppose using "competitive bidding to allocate spectrum for global and international satellite services."<sup>5</sup>

## **C. Spectrum in Rural and Remote Service Areas**

Winstar believes that the flexibility to increase power in rural and remote areas, for certain types of systems, is in the public interest and would enhance the provision of services to residents and businesses in those areas. Winstar disagrees with Hughes Network Systems opposition of any changes in the licensing rules that would permit an increase in the power limits for terrestrial operations in rural and remote areas.<sup>6</sup>

Additionally, Winstar wishes to reply to the Rural Telecommunications Group's comments promoting a "use it or lose it" approach to buildout requirements.<sup>7</sup> Such an approach

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<sup>4</sup> See Comments of The Boeing Company, to the *Spectrum Policy Task Force Report* in ET Docket No. 02-135, at 2 (Jan. 27, 2003) [hereinafter Boeing Comments].

<sup>5</sup> *Id.* at 3.

<sup>6</sup> See Comments of Hughes Network Systems, Inc., to the *Spectrum Policy Task Force Report* in ET Docket No. 02-135, at 8-10 (Jan. 27, 2003).

<sup>7</sup> See Comments of The Rural Telecommunications Group, to the *Spectrum Policy Task Force Report* in ET Docket No. 02-135, at 7-8 (Jan. 27, 2003).

must not apply where entities purchased spectrum rights at auction and continue to effectuate plans to market their services.

#### **D. Interference Temperature Concept**

Winstar agrees with a number of commenters that the Commission should proceed cautiously regarding the interference temperature concept. Determining interference impact is considerably more complex than simply taking a snapshot of the noise temperature environment at a particular location at a particular point in time.

#### **E. Interference Measurements and Modeling**

Winstar disagrees with the Telesat characterization of the interference as a result of fading on the satellite path as contrasted to the terrestrial path.<sup>8</sup> The interference path from the satellite to the terrestrial receiver may or may not be faded as much, or even at all, when compared to the path from the satellite to its Earth Station, particularly during intense rain activity. While Winstar agrees that the impact on availability is a meaningful measure of the impact of interference, the loss of margin or the exceedance of an acceptable I/N ratio as a result of an increase in interference are also significant measures of the effect of interference on a terrestrial system.

Winstar agrees that accurately determining interference impact is complex and that modeling is necessary to assess the impact of interference over a wide range of conditions and locations. However, we would caution that relying on a complex model that is not based upon agreed statistical probability will not result in acceptable conclusions that will accurately reflect the situation or the result. For example, the Telesat comments citing reference, ITU-R-SF 1572 lacks basic specifics on the angular region around an FS antenna axis within which correlated

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<sup>8</sup> See Comments of Telesat Canada, to the *Spectrum Policy Task Force Report* in ET Docket No. 02-135, at 3 (Jan. 27, 2003).

fades cannot be assumed. It also does not take into account the possibility of increased interference due to downlink power control. These require statistical information that is not yet available. Unless there are agreed assumptions on the complex model, a more basic modeling approach may provide the boundaries of what the result may be. Winstar encourages the use of comprehensive models when there can be agreement on the complexities, in other cases a more basic modeling approach may be appropriate.

#### **F. The FCC's Role in International Telecommunications Union Reform**

Winstar agrees with Panamsat<sup>9</sup> that the Commission should promote International Telecommunications Union ("ITU") reform, and global harmonization of frequency use, as recommended by the SPTF. However, promotion of enlightened regulation in other countries should be for all radio services, not just satellite services.

#### **G. Unlicensed Spectrum**

Many SPTF commenters encourage the Commission to promote advanced technologies. For example, RadioShack<sup>10</sup> and the Consumer Electronics Association<sup>11</sup> support maximum flexibility for such uses. Winstar recognizes the benefit of technological advancement but encourages cautious movement in this field. Specifically, Winstar believes further study is required before exclusively licensing spectrum for these uses.

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<sup>9</sup> See Comments of Panamsat Corporation, to the *Spectrum Policy Task Force Report* in ET Docket No. 02-135, at 3 (Jan. 27, 2003).

<sup>10</sup> See Comments of RadioShack Corporation, to the *Spectrum Policy Task Force Report* in ET Docket No. 02-135, at 3-4 (Jan. 27, 2003).

<sup>11</sup> See Comments of The Consumer Electronics Association, to the *Spectrum Policy Task Force Report* in ET Docket No. 02-135, at 4-6 (Jan. 27, 2003).

As such, Winstar agrees generally with the comments of Lucent Technologies<sup>12</sup> and Nokia, Inc.<sup>13</sup> supporting flexibility but urging the Commission to provide incumbent licensees with sufficient interference protection, especially those who purchase their spectrum at auction.

### **III. CONCLUSION**

WHEREFORE THE PREMISES CONSIDERED, Winstar Communications, LLC requests that the Commission proceed expeditiously in its consideration of these proposals, and giving due consideration to the comments and recommendations made by Winstar in our Comments, as above.

Respectfully submitted,

**WINSTAR COMMUNICATIONS, LLC**

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<sup>12</sup> See Comments of Lucent Technologies, to the *Spectrum Policy Task Force Report* in ET Docket No. 02-135, at 2 (Jan. 27, 2003).

<sup>13</sup> See Comments of Nokia, Inc., to the *Spectrum Policy Task Force Report* in ET Docket No. 02-135, at 2-3 (Jan. 27, 2003).